

## REMARKS

Applicants respectfully request reconsideration of this application. No claims have been amended. Claims 17-19 have been previously cancelled. No new claims have been added. Therefore, claims 1-16 and 20-30 are now are presented for examination.

### 35 U.S.C. § 103 Rejection

Claims 1-16 and 20-30 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Achour, et al., U.S. Patent No. 6,363,260 (“Achour”) in view of Jungck, et al., U.S. Patent Publication No. 2002/0009079 (“Jungck”).

Applicant respectfully submits that Achour discloses a “method to enhance *performance of a dual-mode or dual-band mobile telephone* includes, after the phone has initially connected to a CDMA wireless network, *monitoring a level of total power received by the phone.*” (Abstract; emphasis provided). Achour further discloses that “a *list of preferred service provider systems is kept in a preferred roaming list . . . [t]he preferred roaming list is a list of frequencies and bands in different parts of the country.*” (col. 7, lines 60-64; emphasis provided). The “mobile phone first determines *whether it is receiving sufficient total power to permit a satisfactory level of performance by the cell phone.* If so, the mobile phone enters the idle state for further monitoring. If not enough total power is reaching the mobile phone, it exists the first service provider system to find a better service provider system.” (col. 6, lines 36-41; emphasis provided).

Jungck discloses an “apparatus and method for enhancing the infrastructure of a network such as the Internet.” (Abstract). Jungck further discloses that “because *server[s] 108, 110, [and] 112 comprise multiple IP addresses*, the DNS translation servers may be programmed to *return a list of IP addresses* in response to a given domain name translation request. Typically this list will be ordered from *most optimal IP address to the least optimal IP address.* The

browser program can then *pick one of the IP addresses* to send content to and automatically switch to another IP address *should the first requests fail to reach the destination server 108, 110, [and] 112.*” (page 7, paragraph 62; emphasis provided).

In contrast, claim 1, in pertinent part, recites “upon detecting disturbance from the first edge site, selecting a second edge site from the preferred list as the active site.” (emphasis provided). Applicants submit that neither Achour nor Jungck teach or reasonably suggest such a feature. The Examiner in a Final Office Action, mailed September 21, 2006 (“Office Action”) admits that Achour does not disclose the feature. (see Office Action at page 2, section 3). Instead, the Examiner relies on Jungck as disclosing the feature.

Applicants submit that Jungck fails to teach or reasonably suggest “upon detecting disturbance from the first edge site, selecting a second edge site from the preferred list as the active site” as in claim 1. (emphasis provided). Jungck discloses servers with multiple IP addresses, and DNS translation servers with multiple IP addresses associated with a given domain name. Further, when a browser requests content, the DNS server picks the IP address from the content server that is most optimal. Then, if that IP address is unreachable, the DNS server changes the domain translation to the next most optimal IP address of the server and tires the request again. Applicants submit that an IP address is not an edge site. Switching to a new IP address within a server by a DNS server as in Jungck is not equivalent to switching between edge sites, as in claim 1. In other words, in Jungck the switching of an IP address does not switch the server, as opposed to claim 1 where a completely new edge site is selected.

Therefore, Applicant submits that neither Achour nor Jungck, individually, or when combined, in any combination teach or reasonably suggest “upon detecting disturbance from the first edge site, selecting a second edge site from the preferred list as the active site.” (emphasis provided). Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 11, 14, 20 and 24 include limitations similar to those of claim 1. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 11, 14, 20 and 24 and their dependent claims.

### **Conclusion**

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

### **Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.


### **Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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